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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,831	09/10/2003	Peter J. Black	990486D1	5958
23696	7590	06/02/2009	EXAMINER	
QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121				TSEGAYE, SABA
ART UNIT		PAPER NUMBER		
2419				
			NOTIFICATION DATE	
			DELIVERY MODE	
			06/02/2009	
			ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

us-docketing@qualcomm.com  
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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/659,831	BLACK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	SABA TSEGAYE	2419	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 16 March 2009.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-3,5,6 and 12-17 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-3,5,6 and 12-17 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. This Office Action is in response to the amendment filed 03/16/09. Claims 1-3, 5, 6 and 12-17 are pending. Currently no claims are in condition for allowance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 12 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by SETA (US 2002/0054611 A1).

Claims 1, 12 and 15, SETA discloses an apparatus (Fig. 1) comprising:

a first device to transmit at a first frequency (base station 2); and a second device to transmit at a second frequency (base station 3); further, SETA discloses that signals transmitted from each base station (first and second devices) to a mobile terminal include a pilot signal and a synchronizing signal, and each base station transmits these signals upon spreading and modulating the signal by a pilot PN sequence; each base station is provided with a different **phase offset** so that the mobile terminal can identify the particular base station (0004).

4. Claims 2, 3, 5, 6, 13, 14, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over SETA in view CZAJA et al. (2002/0037726 A1).

Regarding claims 2 and 3, SETA discloses all the claim limitation as stated above, except for different CDMA format.

CZAJA teaches a soft handoff between different generations of CDMA systems. A mobile station measures pilot's strength of all base station (2G and 3G) and reports to the base station (0041; 0052).

It would have been obvious to one ordinary skill in the art at the time the invention was made to use different CDMA format, such as that suggested by CZAJA, in the system of SETA in order to provide improved communication system which is a mix of different and compatible CDMA system.

Regarding claims 5, 6, 13, 14, 16 and 17, CZAJA discloses a CDMA mobile communication system in IS-95A/IS-95B standards. According to IS-95 standards, the short code I-sequence is associated  $P_{1,2} = x^{15} + x^{13} + x^9 + x^8 + x^7 + x^5 + 1$  and Q-sequence is associated with the polynomial  $P_{Q,1} = X^{15} + x^{12} + x^{11} + x^{10} + x^6 + x^5 + x^4 + x^3 + 1$ .

#### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-3, 5, 6 and 12-17 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SABA TSEGAYE whose telephone number is (571)272-3091. The examiner can normally be reached on Monday-Friday (7:30-5:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on (571) 272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Saba Tsegaye  
Examiner  
Art Unit 2419

/S. T./  
Examiner, Art Unit 2419

/Hong Cho/  
Primary Examiner, Art Unit 2419